

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

MTS SYSTEMS CORPORATION,

CIVIL No. 06-3853 (MJD/AJB)

PLAINTIFF,

**ORDER ON DEFENDANT'S
MOTION TO DISMISS**

V.

HYSITRON INCORPORATED,

DEFENDANT.

ERICH KOCH, ESQ., FOR PLAINTIFF.

ALLEN HINDERAKER, ESQ., AND TOM WU, ESQ., FOR DEFENDANT.

Based upon the Report and Recommendation by United States Magistrate Judge Arthur J. Boylan dated June 29, 2007. There being no objections having been filed to said Recommendation,

THE COURT HEREBY ORDERS that:

1. Magistrate Judge Boylan's Report and Recommendation is **adopted**; and
2. Defendant's Motion to Dismiss [Docket No. 74] is **denied**.

Dated: July 25, 2007

s/Michael J. Davis
Judge Michael J. Davis
United States District Court